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**HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 2932 OF 2006.
ALONG WITH
CIVIL APPLICATION NO. 5282 & 4959 OF 2006.

United Insurance Company. ..Appellant.

Versus.

Prabhakar Genba Medhekar & Ors. ..Respondents.

Mr. S. G. Deshpande for the appellant.

**CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.**

DATE: JANUARY 31, 2007.

P.C.

1. Heard learned counsel for the appellant.

2. The award dated 25th July 2006 passed by the Additional Member, Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 3 of 2000 is challenged. By the said award the appellant Insurance Company was directed to pay jointly and severally along with the owner of the vehicle a sum of Rs.15,67,500/- together with simple interest at the rate of 8% per annum from the date of claim petition till the date of realisation of the amount, within 30 days of the order. The said award is challenged not by the owner of the vehicle but by the Insurance Company. It is an admitted fact on record

that on the date of accident the insurance was in subsistence and Insurance Company was liable to pay compensation. The grievance made by the Insurance Company before us is that the calculation of quantum is erroneous.

. Learned counsel for the appellant - Insurance Company tried to submit that from the total income of the deceased the income tax deductions should have been considered and thereafter the dependency should have been calculated. We are not in agreement with the learned counsel. It is reflected from the judgment that the monthly income of the deceased was Rs.13,000/-. Nothing has been brought on record or demonstrated before us from the evidence or otherwise that this income has been wrongly taken by the Tribunal as the monthly income of the deceased. Therefore, if the income of the deceased was Rs.13,000/- per month, the further calculations carried out by the Tribunal are justified. We further note that so far as the age of the deceased is concerned he was of 31 years of age and therefore the multiplier of 15 which was accepted by the Tribunal was just and proper.

3. Lastly, the learned counsel tried to submit that the dependency which has been relied upon is 2/3rd,

however, the claimants were parents and therefore the dependency should not have been taken as 2/3rd. This is a matter of evidence in each case. There cannot be a straight jacket formula in respect of the dependency. The Tribunal, in the circumstances has rightly inferred the dependency as 2/3rd. It was obligatory for the appellant to demonstrate that the finding in respect of the dependency is unjustified or not supported by the evidence. However, no material was brought on record before us. The attempt was made to rely upon 1999 ACJ 1400 (Donat Louis Machado & ors. v/s. L. Ravindra & ors.). However, we do not find that any ratio as such has been laid down by the Apex Court in the matter of calculation of dependency of the parents. Therefore the said judgment will not help the Insurance Company. We do not find any substance in the appeal. The appeal deserves to be rejected. It is accordingly rejected.

4. Since the appeal is rejected, the interim relief which is granted in the appeal stands vacated. Since the appeal is rejected and the stay is vacated, civil applications do not survive and they are accordingly disposed of.

(SMT. NISHITA MHATRE, J.)

(S.B.MHASE, J.)

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